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In re Application of	:	
ARUMOA	:	DECISION ON
Application No.: 10/509,209	:	
PCT No.: PCT/US2003/009840	:	PETITION
Int. Filing Date: 28 March 2003	:	
Priority Date: 28 March 2002	:	UNDER 37 CFR 1.47(b)
Attorney's Docket No.: 1362-1-020PCTUS	:	
For: NEUROPROTECTANT METHODS,	:	

one-month extension of time accompanied the petition. The petition was deposited with a certificate of mailing under 37 CFR 1.8 indicating the paper was filed on 29 June 2005.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Applicant's petition has satisfied items (1) and (6) above.

Regarding item (2) above, applicant has concluded that Mr. Aruoma has refused to sign the declaration. In the present instance, a copy of a letter from Ms. Hathaway to Mr. Aruoma has been presented. The letter indicates that a copy of the application papers and declaration were sent via FEDEX to Mr. Aruoma for signature. Despite applicant statement there is no evidence that Mr. Aruoma received the package. Additionally, there is not a statement from Ms. Hathaway attesting to her actions.

Regarding item

to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

CONCLUSION

The petition under 37 CFR 1.47(b) is DISMISSED.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

